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The Voice of the Industrial Base

March 28, 2003

Ms. Linda G. Williams
Associate Administrator for Government Contracting
The U.S. Small Business Administration
409 Third Street, SW.
Mail Code 6530
Washington, DC 20416

Subject: Proposed Rule: Amending Small Business Prime Contracting Assistance

Dear Ms Williams:

The National Defense Industrial Association (NDIA) appreciates the opportunity to comment on a proposal to amend the Small Business Administration's (SBA) prime contracting assistance regulations. This rule, which was published in the *Federal Register* on January 31, 2003, is designed to implement the recommendations of the Office of Management and Budget in its report entitled "A Strategy for Increasing Federal Contracting Opportunities for Small Business."

NDIA is a non-partisan, non-profit organization with a membership that includes over 900 companies and more than 24,000 individuals. NDIA has a specific interest in government policies and practices concerning the government's acquisition of goods and services, including research and development, procurement, and logistics support. Our members, who provide a wide variety of goods and services to the government, include some of the nation's largest defense contractors.

We fully support the overarching objective of this rule to improve small business access to federal contracting opportunities. We particularly approve of efforts to enhance compliance with small business subcontracting plans and to consider such compliance when assessing a contractor's record of past performance. We further support the need for greater discipline in controlling unjustified contract bundling. However, we encourage the SBA to develop implementing regulations that balance expanding small business prime assistance with the impact such changes would have on the users of the goods and services being acquired and on other segments of the industrial base.

The proposed amendment to Part 125.2(b)(1) will require SBA Procurement Center Representatives (PCR) to review an acquisition not set aside for small business and identify alternate strategies to maximize the use of small business in the procurement. We would like to respectfully suggest when the SBA PCR undertakes these new

responsibilities that the regulations further require an assessment of the impact of such set asides or alternate strategy considerations on an expanded array of business issues. This additional assessment should specifically review cost to the program in terms of dollars of any such recommendation. The PCR should also review the impact of any such decision on effective competition and on proven technical capabilities available in the marketplace. The evaluation of these additional considerations would result in more balanced set asides or alternate strategy decisions.

The proposed amendment under part 125.2(e) adds a review function for Office of Small Disadvantaged Business Utilization (OSDBU) to assess the extent small businesses are receiving their fair share of federal procurements. To promote this provision, we recommend that the proposed amendment be revised to require: (1) the SBA and federal agencies to negotiate two-part goals for contracts awarded to the various types of small business concerns, with agency-specific goals set not only for prime contracts but also for subcontracts awarded to small business concerns, consistent with the specific provisions and goals of the Small Business Act; and (2) the OSDBU, in performing assessments of contracts awarded to small business concerns, to identify and track the number of federal contracting dollars going to Small and Small Disadvantaged Business, HBCU, Women-Owned, Veteran-owned and HUBZones at the subcontract level through the third tier. It has long been recognized that a significant portion of federal procurement dollars that benefit these important small entities is realized at levels below the prime contract. The opportunity to capture and include these data in any assessment of the small business utilization would be an important metric and add balance to this issue.

The recommendations above are suggested in the interest of maintaining balance in the public rulemaking process by giving full consideration to all segments of the industrial base. Absence of such consideration has the potential to drive private sector firms from the federal marketplace, thus limiting effective competition. NDIA would be pleased to work with SBA to develop equitable, clear and uniform coverage dealing with Small Business Contracting Assistance. For further information, please contact NDIA Procurement Director Ruth Franklin at (703) 247-2598 or at rfranklin@ndia.org.

Sincerely,



Peter M. Steffes
Vice President, Government Policy